

## TEACHERS' RETIREMENT BOARD

### REGULAR MEETING

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SUBJECT: State Legislation

ITEM NUMBER: 5a

ATTACHMENT(S): 2

ACTION: X

MEETING DATE: December 5, 2002

INFORMATION:     

PRESENTER: Ed Derman

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### LEGISLATION POLICY

Chapter 1049, Statutes of 2002 (SB 1580—Burton) requires, beginning January 1, 2004, that the three members of the Board currently appointed by the Governor be elected by the active members and participants of CalSTRS. At the November meeting, staff recommended the Board sponsor legislation that clarifies provisions of Chapter 1049 to permit implementation of this measure. The Board directed staff to review the current Board policy on legislation to determine whether the current policy on Board governance legislation would need to be changed to permit such sponsorship. Staff reviewed the current Board policy for consistency with the newly chaptered legislation and recommends the changes outlined below. The proposed new language is underlined.

#### **Teachers' Retirement Board Policy On Legislation**

The Teachers' Retirement Board (Board) directs staff to make reasonable efforts to achieve passage of pending state and federal legislation or regulations sponsored or supported by the Board, to negotiate amendments to pending legislation or regulations as appropriate and necessary, and to defeat legislation or regulations opposed by the Board. The Board also authorizes staff to represent as the Board's position on legislation the same position the Board had previously on substantively identical legislation during the current legislative session. Positions of support, neutral, no position or oppose are based on the following guidelines

- I. Sponsor or support legislation or regulations which:
  - A. Are consistent with the objectives of providing financially sound primary and supplemental retirement plans for California's educators.
  - B. Expand or improve in a prudent manner the benefits and services provided through the funds administered by the California State Teachers' Retirement System (CalSTRS) as appropriate for public retirement systems. Expanded benefits and services may be funded from available surplus assets of CalSTRS,

including normal cost surpluses, or through additional contributions to the System.

- C. Improve the delivery of benefits and services and provide more effective and efficient administration of the retirement plan.
- D. Are consistent with the investment policy adopted by the Board as presented in the CalSTRS Statement of Investment Responsibility.
- E. Preserve the assets and minimize the liabilities of the funds administered by CalSTRS.
- F. Reduces inequities or deficiencies in plan design.
- G. Gives more flexibility to the Board in its administration.

II. Adopt a neutral position or no position on legislation or regulations which:

- A. Do not significantly or adversely impact the benefits or services provided through the funds administered by CalSTRS or the administration of the retirement plans.
- B. Affect the composition of the Board or the process by which individuals are appointed to serve as members of the Board. The Board may, however, sponsor or support provisions of legislation deemed necessary to clarify or implement enacted legislation that either provides for the election of members or otherwise changes the composition of the Board.

III. Oppose legislation or regulations which:

- A. Adversely affect the actuarial balance of the funds administered by the System, or result in adverse selection against a retirement plan.
- B. Expand or improve the benefits or services provided through the funds administered by CalSTRS without adequate funding or provide benefits or services that are not appropriate for public retirement plans.
- A. Deprive members or participants of vested benefits and do not provide equivalent, compensating benefits.
- B. Is special interest legislation to benefit only one individual or a small group of individuals within a larger group unless the Board determines an inequity exists which the legislation or regulation would correct.

- C. Restrict or infringe on the plenary authority of the Board to administer the retirement plans as provided in Section 17 or Article XVI of the California State Constitution.
- D. Restrict the investment authority of the Board or are inconsistent with the investment policy adopted by the Board as presented in the CalSTRS Statement of Investment Responsibility.
- E. Appropriate amounts from the funds administered by CalSTRS for purposes that are not solely in the best interest of the members, participants, or beneficiaries of the retirement plans.
- F. Endanger the Trust or the tax-exempt status of retirement plans administered by CalSTRS and the deferred treatment of income tax on employer contributions to the plans and related earnings.
- G. Is inconsistent with provisions of Section 403(b) of the Internal Revenue Code of 1986 and the Revenue and Taxation Code that are applicable to the System's annuity contract and custodial account.
- H. Conflict with the System's strategic directions established by the Board.

### **2003 LEGISLATIVE PROPOSALS**

CalSTRS staff reviewed four proposals for potential Teachers' Retirement Board legislation. Staff recommends that the Board sponsor the following legislative proposals for the first year of the 2003-2004 Legislative Session:

03-01: Continuous Appropriation Authority

03-02: Classified Employees as Participants in the Cash Balance Benefit Program

A complete summary of each proposal is attached. Staff continues to look at other areas within the System that may result in additional legislative proposals being brought before the Board for consideration.

**CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM  
REQUEST FOR APPROVAL OF PROPOSED LEGISLATION**

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**BRANCH:**

Accounting Division

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**PROPOSAL TITLE:**

Budgetary Process Modifications

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**PROBLEM:**

The 2002-03 Budget impasse potentially impeded the ability of CalSTRS to continue operations without impairing the timely delivery of benefits. Current law prohibits the transfer and disbursement of Teachers' Revolving Fund (TRF) funds money without an appropriation from the Budget Act.

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**PROPOSED SOLUTION:**

Continuously appropriate funds for support of CalSTRS if the Budget Act is not approved by July 1. The continuous appropriation would be in effect only until the Budget Act becomes law. This would ensure the funding is available to administer CALSTRS programs and provide services to CalSTRS members and beneficiaries.

The proposed language is as follows:

22307. (a) The board may authorize the transfer and disbursement of funds from the retirement fund for the purpose of carrying into effect this part and Part 14 (commencing with Section 26000). That action shall require signatures of either the board chairperson and vice chairperson, or the signatures of the board chairperson or vice chairperson and the chief executive officer or any employee of the system designated by the chief executive officer.

(b) Notwithstanding Section 13340 of the Government Code, the board may disburse funds for benefits payable under this part and Part 14 (commencing with Section 26000), for the payment of refunds and for investment transactions. Funds for these purposes shall not require appropriation by the annual Budget Act.

(c) Except as provided in Section 22307.1, funds Funds for the payment of administrative expenses are not continuously appropriated, and funds for that purpose shall be appropriated by the annual Budget Act.

22307.1. (a) Notwithstanding Section 13340 of the Government Code, in addition to the purposes for which funds are appropriated pursuant to Section 22307, there is hereby continuously appropriated from the Teachers Retirement Fund to the board, the amount of funds necessary for the payment of administrative expenses

(b) The appropriation authorized by this section shall be operative for any fiscal year only if annual Budget Act for that fiscal year is not chaptered on or before July 1, shall become inoperative for that fiscal year upon the enactment of the annual Budget Act, and shall not exceed the amount necessary for the payment of administrative expenses, as determined by the

board. The board shall notify the Joint Legislative Budget Committee of the amount of any payments issued pursuant to this section.

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**IMPACT ON CURRENT PRACTICE:**

In light of CalSTRS forward-looking development of business continuity planning, an additional element may hamper the ability to deliver timely benefit payments and information in the form of a budget impasse. The state has experienced budget impasses in the past, delaying the signing of the budget for as much as 66 days. Although the recent budget impasse did not impair the delivery of benefits to members, a protracted budget impasse may jeopardize CalSTRS' ability to pay certain benefit-related expenses. This past year the SCO office had enough postage on its postage equipment to allow the member warrants to be delivered, however had the meters run out, CalSTRS could not provide the necessary funds to purchase the postage to ensure their delivery. The budget for 2003-2004 is limited by recent legislation to revenues actually collected; therefore the budget will likely require large cuts. Past experience has shown that budget reductions of this magnitude will require much negotiation and as a result, the budget negotiations may result in another impasse. Additionally, if there was a system modification that was required to be performed prior to or between running the allowance roll(s), there would be no funding available to procure a contractor to perform the immediately necessary modifications.

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**FISCAL IMPACT:****Program Costs/Savings:**

No additional costs. Potential savings or cost avoidance may result because no interest would be paid on overdue vendor/contractor charges that cannot be paid until the passage of the Budget Act.

**Administrative Costs/Savings:** None.

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**PRO/CON ARGUMENTS:**

CalSTRS operations and the payment of benefits and other non-discretionary expenses would be unaffected by any future budgetary impasses. This would allow CalSTRS the ability to continue operations and to deliver benefits in the same timely manner as benefit recipients have come to expect. Other budgetary procedures such as Budget Change Proposals and the annual budget cycle would remain unchanged.

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**CONSEQUENCES IF PROPOSED SOLUTION IS NOT PURSUED:**

If this proposal is not pursued, CalSTRS faces the possibility that the delivery of benefit payments and services may be delayed by a future budget impasse. Although the benefit payments are continuously appropriated, the means of delivering those payments and the provision of services is subject to the budgetary process. The result could be in a protracted budget impasse, the payments not being delivered because of insufficient postage or the inability to pay other expenses related to the generation and delivery of the benefits.

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**CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM  
REQUEST FOR APPROVAL OF PROPOSED LEGISLATION**

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**BRANCH:**

External Affairs and Program Development Branch

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**PROPOSAL TITLE:**

Classified Employees as Participants of the Cash Balance Benefit Program

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**PROBLEM:**

Under current law, part-time public employees must participate in Social Security if they do not participate in a qualified retirement plan. Certificated employees in K-12 and community college districts have the option to become members of the CalSTRS Defined Benefit (DB) Program, the primary CalSTRS retirement program. The Cash Balance (CB) Benefit program is available to school districts, county offices of education and community college districts to offer to their part-time employees as an alternative to the DB Program and Social Security. Under current law, the CB Benefit Program is available only to part-time district employees who perform CalSTRS-creditable service.

Classified school employees who work less than half-time have few choices with regards to retirement plan coverage and are prohibited from becoming members of California Public Employees Retirement System (CalPERS). Some school employers have been unwilling to offer the CB Benefit Program to their employees because they are able to contract with vendors that offer an alternative retirement plan that provides coverage to both their credentialed and classified employees. By offering an alternative plan such as PARS, all part-time employees, including classified school employees can participate in one plan.

Different plans require different employer and employee contribution rates. Employees covered by Social Security pay a payroll tax of 6.2 percent of salary, with the employer paying an equal amount. Employers and employees who participate in alternative retirement plans contribute an amount that varies by district, however, federal law requires a minimum total contribution of 7.5 percent. In some cases, this cost is paid entirely by the employee. The CB Benefit Program requires a minimum 8 percent total contribution rate and a minimum 4 percent employer contribution rate.

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**PROPOSED SOLUTION:**

Allow part-time classified K-12 and community college district employees not subject to mandatory membership in CalPERS to elect coverage under the CB Benefit Program, if their employer offers it as an alternative plan for such employees.

This proposal would change the definition of creditable service under the CB Benefit Program to include service performed by classified K-12 and community college district employees excluded from mandatory CalPERS membership and requires classified employees to leave the CB Benefit Program when their base of employment changes to require mandatory membership

in CalPERS. K-12 and community college districts offering the CB Benefit Program would only report to CalSTRS the service of classified employees who elect to participate in the CB Benefit Program, and would transmit the associated contributions to CalSTRS along with those of their credentialed employees who also elect the CB Benefit Program. This proposal, although applicable only to community college employees, was included in AB 1710 (Negrete-McCloud), which would have imposed minimum retirement contribution requirements on employers of part-time community college employees. Although that bill was vetoed, this provision did not generate any opposition.

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**IMPACT ON CURRENT PRACTICE:**

Increased enrollment in the CB Benefit Program will require more staff to deal with the increased workload.

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**FISCAL IMPACT:****Program Costs:**

There would be no net benefit cost increase as a result of this proposal. The increased liability to the CB Benefit Program would be offset by increased program contributions. However, by allowing part-time classified employees to participate in the CB Benefit Program, rather than in Social Security or an alternative plan, there would be a fiscal impact on school districts. It could result in higher or lower costs to the districts depending on whether the contribution rate for the CB Benefit Program is higher or lower than the rate imposed by the current option and how many part-time classifieds choose CB over other alternatives. The district would, however, make the decision whether to offer the CB Benefit Program to their classified employees.

**Administrative Costs**

Additional resources to handle a possible increase in workload are to be determined.

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**PRO/CON ARGUMENTS:**

Allowing K-12 and community college districts to offer all their credentialed and classified employees that work less than half-time coverage under the CB Benefit Program provides them with an alternative retirement plan that better meets their individual needs.

This proposal presents an opportunity to expand eligibility under the CB Benefit Plan, making it more attractive for K-12 and community college districts to consolidate retirement coverage for all their employees that work less than half time.

This new group of participants in the CB Benefit Program will include student assistants, cafeteria workers, building maintenance people and similar employee classifications. In many instances, the salary ranges for these types of employees will be below the parameters established for salary rates for the monthly reports of retirement contributions. Extending eligibility to this group may require some additional modifications to START if this proposal is enacted after the CB database is integrated with START.

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**CONSEQUENCES IF PROPOSED SOLUTION IS NOT PURSUED:**

The growth rate for membership in the CB Benefit Program will likely remain unchanged due to continued resistance on the part of school employers to provide separate retirement plans to their credentialed and classified employees that are not subject to mandatory membership in the DB Program or CalPERS.

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